

DISTRICT COURT OF GUAM
TERRITORY OF GUAM
CRIMINAL MINUTES
SENTENCING

FILED
DISTRICT COURT OF GUAM
OCT - 6 2005
MARY L.M. MORAN
CLERK OF COURT

CASE NO. CR-04-00024-003

DATE: October 6, 2005

HON. LLOYD D. GEORGE, Designated Judge
Court Reporter: Wanda Miles
Hearing Electronically Recorded: 11:29:09 - 12:05:00

Law Clerk: NONE PRESENT
Courtroom Deputy: Leilani Toves Hernandez
CSO: J. Lizama

***** APPEARANCES *****

DEFT: ALEX DE LARA COSTELLO
(X) PRESENT () CUSTODY () BOND (X) P.R.

ATTY: F. RANDALL CUNLIFFE
(X) PRESENT (X) RETAINED () FPD () CJA APPOINTED

U.S. ATTORNEY: KARON JOHNSON

AGENT: F. SANTOS, D.E.A.

U.S. PROBATION: STEPHEN GUILLIOT

U.S. MARSHAL: G. PEREZ

INTERPRETER: _____ LANGUAGE: _____

(X) COURT STATES THE APPROPRIATE BASE OFFENSE LEVELS

Base offense level: 32

Total offense level: 28

Criminal History Category: I

NO OBJECTIONS BY THE GOVERNMENT AND DEFENSE

(X) ATTORNEY FOR DEFENDANT ADDRESSES THE COURT:

Requested for the Court to sentence the defendant to 37 months.

(X) DEFENDANT ADDRESSED THE COURT AND APOLOGIZES

(X) GOVERNMENT ADDRESSES THE COURT AND MAKES ITS RECOMMENDATION:

A sentence of 70 months.

() LETTER(S) OF RECOMMENDATION RECEIVED BY THE COURT

NOTES/OTHER MATTERS:

Defense moved for the defendant to be allowed to self-surrender pending designation of Bureau of Prisons and for a Judicial Recommendation for the defendant to be allowed to participate in a substance abuse treatment program while incarcerated. No objections by Government or Probation - Granted.

(X) DEFENDANT COMMITTED TO THE BUREAU OF PRISONS FOR A TERM OF 70 MONTHS FOR COUNT I AND 70 MONTHS FOR COUNT II, TO BE SERVED CONCURRENTLY. WHILE IMPRISONED THE DEFENDANT SHALL PARTICIPATE IN VOCATIONAL AND SUBSTANCE ABUSE TREATMENT PROGRAMS APPROVED BY THE BUREAU OF PRISONS.

(X) UPON RELEASE FROM IMPRISONMENT, DEFENDANT IS PLACED ON SUPERVISED RELEASE FOR A TERM OF COUNT I - FIVE YEARS; COUNT II - FIVE YEARS, TO BE SERVED CONCURRENTLY .

THE TERM OF SUPERVISED RELEASE WILL INCLUDE THE FOLLOWING CONDITIONS:

1. DEFENDANT SHALL BE TURNED OVER TO A DULY AUTHORIZED IMMIGRATION OFFICIAL FOR DEPORTATION PROCEEDINGS PURSUANT TO 18 U.S.C. §3583(d), AND WITH THE ESTABLISHED PROCEDURES PROVIDED BY THE IMMIGRATION AND NATURALIZATION ACT UNDER 8 U.S.C. §1101. AS A FURTHER CONDITION OF SUPERVISED RELEASE, IF ORDERED DEPORTED, THE DEFENDANT SHALL REMAIN OUTSIDE AND SHALL NOT RE-ENTER THE UNITED STATES WITHOUT THE PERMISSION OF THE ATTORNEY GENERAL. IF DEPORTATION FAILS TO OCCUR AND THE DEFENDANT IS RELEASED FROM CONFINEMENT PENDING FURTHER IMMIGRATION PROCEEDINGS, HE SHALL IMMEDIATELY REPORT TO THE U.S. PROBATION OFFICE TO BEGIN HIS TERM OF SUPERVISED RELEASE.
2. DEFENDANT SHALL NOT COMMIT ANOTHER FEDERAL, STATE, OR LOCAL CRIME.
3. DEFENDANT SHALL NOT USE OR POSSESS ILLEGAL CONTROLLED SUBSTANCES.
4. DEFENDANT SHALL SUBMIT TO ONE DRUG TEST WITHIN 15 DAYS OF RELEASE FROM CUSTODY AND UP TO EIGHT DRUG TESTS PER MONTH THEREAFTER.
5. DEFENDANT SHALL SUBMIT TO THE COLLECTION OF A DNA SAMPLE AT THE DIRECTION OF THE U.S. PROBATION OFFICE.
6. DEFENDANT SHALL COMPLY WITH THE STANDARD CONDITIONS OF SUPERVISED RELEASE AS SET FORTH BY THE STATUTE.
7. DEFENDANT SHALL NOT POSSESS A FIREARM OR OTHER DANGEROUS WEAPON.
8. DEFENDANT SHALL REFRAIN FROM THE USE OF ANY AND ALL ALCOHOLIC BEVERAGES.
9. DEFENDANT SHALL PARTICIPATE IN A PROGRAM APPROVED BY THE U.S. PROBATION OFFICE FOR SUBSTANCE ABUSE WHICH MAY INCLUDE TESTING TO DETERMINE WHETHER THE DEFENDANT HAS REVERTED BACK TO THE USE OF DRUGS OR ALCOHOL, AND IT IS FURTHER RECOMMENDED AND SO ORDERED THAT THE DEFENDANT MAKE A CO-PAYMENT FOR TREATMENT AT A RATE TO BE DETERMINED BY THE U.S. PROBATION OFFICE.
10. DEFENDANT SHALL PERFORM 300 HOURS OF COMMUNITY SERVICE UNDER THE DIRECTION OF THE U.S. PROBATION OFFICE.

THE COURT WAIVED ALL FINES SINCE IT HAD BEEN DETERMINED THAT THE DEFENDANT DOES NOT HAVE THE ABILITY TO PAY.

DEFENDANT WAS ORDERED TO PAY TO THE UNITED STATES A SPECIAL ASSESSMENT FEE OF \$200.00 TO BE PAID IMMEDIATELY AFTER SENTENCING.

THE COURT STATED THE JUSTIFICATION OF SENTENCE IMPOSED. DEFENDANT WAS ADVISED OF HIS APPEAL RIGHTS.

Courtroom Deputy: 